

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN ASSEMBLY MAY 12, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY MARCH 30, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 396

Introduced by Assembly Member Mitchell
(Coauthors: Assembly Members Blumenfield, Dickinson, Jeffries,
and V. Manuel Pérez)

February 14, 2011

An act to add Sections 14053.8 and 14053.9 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 396, as amended, Mitchell. Medi-Cal: juvenile detention facilities. Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing federal law, with certain exceptions, excludes federal financial participation for medical care provided to any individual who is an inmate in a public institution, and existing state law suspends Medi-Cal benefits, for a specified period of time, to an individual under 21 years of age who is an inmate of a public

institution. Existing state law also provides that no person shall be denied benefits, for whom and for which federal financial participation is available, based solely on the individual's incarcerated status in a county or city jail or juvenile detention facility.

Existing law authorizes the Department of Corrections and Rehabilitation and the State Department of Health Care Services, to the extent that federal participation is not jeopardized and federal approval is obtained, to develop a process for the provision of inpatient hospital services to inmates who would otherwise be eligible for Medi-Cal, but for their institutional status as inmates. Existing law also authorizes, to the extent federal financial participation is available, the State Department of Health Care Services to provide Medi-Cal eligibility and reimbursement for inpatient hospital services to inmates, as defined.

This bill would additionally require the State Department of Health Care Services to develop processes to allow counties and the Division of Juvenile Facilities within the Department of Corrections and Rehabilitation to receive any available federal financial participation for ~~health care~~ *acute inpatient hospital services and inpatient psychiatric services* provided to ~~juvenile detainees or detained youth inmates~~, as ~~defined and as~~ applicable, who are admitted as inpatients in a medical institution. The bill would require the department to consult with counties and the Division of Juvenile Facilities in the development of these processes, and would require the department to seek any federal approvals necessary to implement these provisions. The bill would provide that these provisions shall be implemented only to the extent that the Division of Juvenile Facilities and counties elect to voluntarily provide the nonfederal share of expenditures for ~~health care services~~ *acute inpatient hospital services and inpatient psychiatric services*, and would require that the federal financial participation associated with services provided pursuant to these processes be paid to the participating counties or the Department of Corrections and Rehabilitation, as applicable. The bill would provide that these provisions shall be implemented only to the extent that any necessary federal approval is obtained and existing levels of federal financial participation are not jeopardized. The bill would make related findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Federal financial participation may be available for counties
4 that provide health care services to juvenile-~~detainees~~ *inmates*
5 while the juveniles are admitted as patients in a medical institution.

6 (b) Current law provides that an individual under 21 years of
7 age who is an inmate of a public institution shall have his or her
8 Medi-Cal services suspended for up to one year.

9 (c) The eligibility procedures of the State Department of Health
10 Care Services currently do not allow counties to obtain available
11 federal financial participation for health care services provided to
12 juvenile-~~detainees~~ *inmates* when they have been transferred to a
13 medical institution for inpatient services.

14 (d) Pursuant to Section 5072 of the Penal Code and Section
15 14053.7 of the Welfare and Institutions Code, the department is
16 authorized to develop a process to maximize federal financial
17 participation for inpatient hospital services to adult inmates residing
18 in a state prison facility.

19 (e) To reduce the fiscal strain on counties, it is imperative that
20 the department work with counties to develop and implement a
21 similar process to allow counties to obtain federal financial
22 participation based on county expenditures for inpatient hospital
23 services provided to juveniles in their custody.

24 (f) It is not the intent of the Legislature to alter or abrogate any
25 obligation of the state under federal or state law to cover, fund, or
26 reimburse under Medi-Cal any medical services provided to a
27 juvenile detainee.

28 SEC. 2. Section 14053.8 is added to the Welfare and
29 Institutions Code, to read:

30 14053.8. (a) Notwithstanding any other provision of law, the
31 department shall develop a process to allow counties to receive
32 any available federal financial participation for ~~health care~~ *acute*
33 *inpatient hospital services and inpatient psychiatric* services
34 provided to juvenile-~~detainees~~ *inmates* who are admitted as
35 inpatients in a medical institution *off the grounds of the*
36 *correctional facility, and who, but for their institutional status as*
37 *inmates, are otherwise eligible for Medi-Cal benefits pursuant to*
38 *this chapter*. This process shall be coordinated, to the extent

1 possible, with the processes and procedures established pursuant
2 to Section 14053.7 of this code and Section 5072 of the Penal
3 Code. This subdivision shall not be construed to alter or abrogate
4 any obligation of the state pursuant to an administrative action or
5 a court order that is final and no longer subject to appeal to fund
6 and reimburse counties for any medical services provided to a
7 juvenile ~~detainee inmate~~.

8 (b) A juvenile ~~detainee inmate~~ who is an inpatient in a medical
9 institution ~~off the grounds of the correctional facility~~ shall not be
10 denied ~~Medi-Cal eligibility~~ *eligibility for Medi-Cal benefits under*
11 *this section* because of his or her institutional status as a ~~detainee~~
12 *an inmate* of a public institution.

13 (c) The department shall consult with counties in the
14 development of the process pursuant to this section.

15 (d) *This section shall not be construed to limit the department's*
16 *authority to suspend or terminate Medi-Cal eligibility pursuant*
17 *to Section 14011.10, except during such times that the juvenile*
18 *inmate is receiving acute inpatient hospital services or inpatient*
19 *psychiatric services pursuant to subdivision (b).*

20 (e) *This section shall be implemented only if and to the extent*
21 *that existing levels of federal financial participation are not*
22 *otherwise jeopardized. To the extent that the department determines*
23 *that existing levels of federal financial participation are*
24 *jeopardized, this section shall no longer be implemented.*

25 ~~(d)~~

26 (f) The department shall seek any federal approvals necessary
27 to implement the process developed pursuant to this section. This
28 section shall be implemented only if and to the extent that any
29 necessary federal ~~approval is~~ *approvals have been* obtained, and
30 only to the extent that ~~existing levels of federal financial~~
31 ~~participation are not otherwise jeopardized~~ *federal financial*
32 *participation is available.*

33 ~~(e)~~

34 (g) Notwithstanding any other provision of law, as part of the
35 process developed pursuant to this section, the department may
36 exempt ~~the juvenile detainees~~ *juvenile inmates* from enrollment
37 into new or existing managed care health plans.

38 ~~(f) The process developed pursuant to this section shall be~~
39 ~~implemented in only those counties that elect to voluntarily provide~~
40 ~~the nonfederal share of expenditures for health care services to~~

~~juvenile detainees who, but for their inpatient status, would be ineligible for Medi-Cal as detainees of a public institution. For counties that elect to participate, the counties shall agree to pay the nonfederal share of the department's administrative costs in accordance with this section.~~

(h) The process developed pursuant to this section shall be implemented in only those counties that elect to provide the nonfederal share of the state's administrative costs associated with implementation of this section and the nonfederal share of expenditures for acute inpatient hospital services and inpatient psychiatric services provided to eligible juvenile inmates described in subdivision (a).

~~(g)~~

(i) The federal financial participation received pursuant to the process implemented under this section shall be paid to the participating counties for services rendered to the juvenile detainees inmates. If a federal audit disallowance and interest results from claims made under the process created pursuant to this section, the department shall recoup from the county that received the disallowed funds the amount of the disallowance and any applicable interest.

(j) (1) If there is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services (CMS), that disallows, defers, or alters the implementation of this section or, to the extent applicable, Section 14053.7 of this code or Section 5072 of the Penal Code, including the rate methodology or payment process established by the department that limits or effects the department's authority to select the facilities used to provide acute inpatient hospital services and inpatient psychiatric services to juvenile inmates, then any provision of this section that is inconsistent with the final judicial or CMS determination shall have no force or effect.

(2) In addition, the department may, at its discretion, cease to implement any other part of this section that is implicated by the final judicial or CMS determination.

(k) For the purposes of Medi-Cal eligibility pursuant to this section, "juvenile inmate" means an individual under 21 years of

1 *age who is involuntarily residing in a public institution, including*
2 *state and local institutions.*

3 ~~(h)~~

4 *(l) Notwithstanding Chapter 3.5 (commencing with Section*
5 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
6 *the department may, without taking any further regulatory action,*
7 *implement this section by means of all-county letters or similar*
8 *instructions.*

9 SEC. 3. Section 14053.9 is added to the Welfare and
10 Institutions Code, to read:

11 14053.9. (a) Notwithstanding any other provision of law, the
12 department shall develop a process to allow the Department of
13 Corrections and Rehabilitation, Division of Juvenile Facilities, or
14 any successor, to receive any available federal financial
15 participation for ~~health care~~ *acute inpatient hospital services and*
16 *inpatient psychiatric services* provided to any ~~youth detained~~
17 *juvenile inmates* in the Division of Juvenile Facilities who are
18 admitted as inpatients in a medical institution *off the grounds of*
19 *the correctional facility, and who, but for their institutional status*
20 *as juvenile inmates, are otherwise eligible for Medi-Cal benefits*
21 *pursuant to this chapter.* This process shall be coordinated, to the
22 extent possible, with the processes and procedures established
23 pursuant to Section 14053.7 of this code and Section 5072 of the
24 Penal Code.

25 (b) ~~Any youth detained juvenile inmate~~ *in the Division of*
26 *Juvenile Facilities who is an inpatient in a medical institution off*
27 *the grounds of the correctional facility shall not be denied*
28 ~~Medi-Cal eligibility~~ *eligibility for Medi-Cal benefits under this*
29 *section* because of his or her institutional status as ~~a ward~~
30 ~~committed to, or a youth housed in,~~ *an inmate in the Division of*
31 *Juvenile Facilities.*

32 (c) The department shall consult with the Division of Juvenile
33 Facilities in the development of the process pursuant to this section.

34 (d) The department shall seek any federal approvals necessary
35 to implement the process developed pursuant to this section. This
36 section shall be implemented only if and to the extent that any
37 necessary federal ~~approval is~~ *approvals have been* obtained, and
38 only to the extent that ~~existing levels of federal financial~~
39 ~~participation are not otherwise jeopardized~~ *federal financial*
40 *participation is available.*

(e) Notwithstanding any other provision of law, as part of the process developed pursuant to this section, the department may exempt any ~~youth detained juvenile inmate~~ in a facility operated by the Division of Juvenile Facilities from enrollment into new or existing managed care health plans.

(f) The process developed pursuant to this section shall be implemented only to the extent that the Division of Juvenile Facilities agrees voluntarily to provide the nonfederal share of expenditures ~~for health care services to any youth detained in the Division of Juvenile Facilities who, but for their inpatient status, would be ineligible for Medi-Cal as an inmate of a public institution.~~ any costs to the department associated with the administration of this section and the nonfederal share of expenditures for acute inpatient hospital services and inpatient psychiatric services provided off the grounds of the correctional facility to any juvenile inmate of the Division of Juvenile Facilities who is eligible for Medi-Cal benefits pursuant to this section.

(g) The federal financial participation received pursuant to ~~the process implemented under~~ this section shall be paid to the Department of Corrections and Rehabilitation for services rendered to any ~~youth detained juvenile inmate~~ in the Division of Juvenile Facilities.

(h) Reimbursement pursuant to this section shall be limited to only those services for which federal financial participation is available.

(i) (1) If there is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services (CMS), that disallows, defers, or alters the implementation of this section or, to the extent applicable, Section 14053.7 of this code or Section 5072 of the Penal Code, including the rate methodology or payment process established by the department that limits or effects the department's authority to select the facilities used to provide acute inpatient hospital services and inpatient psychiatric services to juvenile inmates in the Division of Juvenile Facilities, then any provision of this section that is inconsistent with the final judicial or CMS determination shall have no force or effect.

1 (2) *In addition, the department may, at its discretion, cease to*
2 *implement any other part of this section that is implicated by the*
3 *final judicial or CMS determination.*

4 (k) *For the purposes of Medi-Cal eligibility pursuant to this*
5 *section, “juvenile inmate” means an individual under 21 years of*
6 *age who is involuntarily residing in a public institution, including*
7 *state and local institutions.*

8 (l) *Notwithstanding Chapter 3.5 (commencing with Section*
9 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
10 *the department may, without taking any further regulatory action,*
11 *implement this section by means of all-county letters or similar*
12 *instructions.*